

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

ELLIOTT GRAISER	)	CASE NO.:
	)	
Plaintiff,	)	JUDGE:
	)	
v.	)	
	)	
VISIONWORKS OF AMERICA, INC.,	)	<b><u>NOTICE OF REMOVAL</u></b>
	)	
Defendant.	)	

Notice is hereby served: Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Visionworks of America, Inc. ("Visionworks") removes the above-captioned action to the United States District Court for the Northern District of Ohio, Eastern Division. Visionworks states the following grounds in support of removal to the United States District Court:

1. Plaintiff Elliott Graiser ("Plaintiff") commenced a civil action against Visionworks in the Cuyahoga County Court of Common Pleas, Case No. CV-14-828880 on June 24, 2014. In his Complaint, Plaintiff asserts causes of action for injunctive relief under Ohio Revised Code 1345.09(D). Plaintiff also captions his Complaint as a putative class action pursuant to Ohio Civ.R. 23.

2. Under 28 U.S.C. §1332(a)(1), this Court has original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different States.

3. Plaintiff is a citizen of the State of Ohio, residing at 3626 Bendemeer Road, Cleveland, Ohio 44118.

4. Visionworks is a citizen of the State of Texas, under 28 U.S.C. § 1332(c)(1). Visionworks is a corporation with its principal place of business located at 175 E. Houston Street, San Antonio, Texas, 78205.

5. Plaintiff and Visionworks are “citizens of different states” within the meaning of 28 U.S.C. § 1332(a)(1).

6. Under 28 U.S.C. § 1446(c)(2)(A)(i), the amount in controversy exceeds \$75,000. Plaintiff attacks Visionworks pricing and marketing strategies in Ohio, and seeks injunctive relief that will require Visionworks to revamp and replace such strategies. If Plaintiff were to prevail, Visionworks would be required to develop and implement new pricing strategies, and would have to undertake new marketing and public relations programs in traditional and internet-based media. Additionally, Plaintiff seeks statutory attorney fees under O.R.C. 1345.09(F). Such fees alone may exceed \$75,000. Thus, while Visionworks vigorously maintains that its pricing and business practices are fair and lawful in all respects, for the purposes of diversity analysis, Plaintiff seeks injunctive relief and attorneys’ fees properly valued well in excess of \$75,000.

7. Visionworks was served with the Complaint on June 26, 2014. This Notice of Removal is therefore timely filed within 30 days of receipt of the Complaint as required by 28 U.S.C. § 1446(b)(1). True and accurate copies of the Complaint,

Summons, Federal Express Proof of Delivery, and the Common Pleas Court Journal Entry of July 24, 2014 are attached hereto as Exhibit A.

8. Promptly after filing this Notice of Removal, Visionworks will give written notice of the removal to all parties and will file a notice in the Cuyahoga County Court of Common Pleas, as required under 28 U.S.C. § 1446(d).

9. Visionworks has not filed an answer or other pleading, and reserves the right to assert any and all defenses and objections to the causes of action set forth in the Complaint. The filing of this Notice of Removal is done without waiving any such defenses and objections.

Respectfully submitted,

/s/ Ronald D. Holman, II

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**CERTIFICATE OF SERVICE**

This will certify that the Notice of Removal was filed electronically, such that all parties may access it through the Court's electronic docket. Plaintiff's counsel will be served by regular U.S. mail at the address below.

Mark Schlachet  
3515 Severn Road  
Cleveland, Ohio 44118

Drew Legando  
1360 West Ninth Street  
Suite 200  
Cleveland, Ohio 44113

/s/ Ronald D. Holman, II  
Ronald D. Holman, II (0036776)